UNITED NATIONS **A S**

General Assembly
Security Council

Distr.
GENERAL

A/48/954
S/1994/751
1 July 1994
ENGLISH
ORIGINAL: ENGLISH/SPANISH

GENERAL ASSEMBLY
Forty-eighth session
Agenda item 40
THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

SECURITY COUNCIL
Forty-ninth year

Letter dated 28 June 1994 from the Secretary-General to the President of the General Assembly and to the President of the Security Council

I have the honour to refer to my letter dated 8 April 1994 (A/48/928-S/1994/448), in which I informed the General Assembly and the Security Council of the signing by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca of a Comprehensive Agreement on Human Rights, an Agreement on a Timetable for the Negotiation of a Firm and Lasting Peace in Guatemala and a joint statement by the two parties.

I am pleased to inform you that the first item which the parties agreed to negotiate within the Timetable, namely the resettlement of the population groups uprooted by the armed conflict, was successfully concluded with the signing of an Agreement at Oslo on 17 June 1994.

In addition, on 23 June 1994, while still in Oslo, the parties complied with their joint statement of March 1994 and signed an Agreement on the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer. Copies of both Agreements are attached.

While neither the Agreement on resettlement nor the establishment of the Commission will come into force until the signing of a final peace agreement between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, the parties have agreed in both cases that preparatory work should begin earlier.

With respect to the composition of the Commission, the parties have agreed to request that I designate the current United Nations Moderator of the negotiations as a member of the Commission. Once I receive an official request from the parties on this matter, I shall give it due consideration and I shall inform you accordingly.

The Agreements on resettlement and on the establishment of the Commission are very encouraging developments which consolidate the prospects for an end to over 30 years of armed conflict in Guatemala. It is my hope that the momentum that has been created so far will result in a successful and timely negotiation of the remaining items on the Timetable for the Negotiation of a Firm and Lasting Peace.

(Signed) Boutros BOUTROS-GHALI

ANNEX I

Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict

Preamble

Reiterating their commitment to put an end to the armed conflict through a negotiation process which lays the bases for a firm and lasting peace in Guatemala,

Considering the national, traumatic dimensions of the uprooting that occurred during the armed conflict in the country, in human, cultural, material, psychological, economic, political and social terms, which caused violations of human rights and great suffering in the communities which were forced to abandon their homes and ways of life, and in the populations which remained in those areas,

Considering the commitment of the Government of Guatemala and of the Unidad Revolucionaria Nacional Guatemalteca to contribute constructively, together with the rest of Guatemalan society, to finding a lasting solution and to facilitating the process of resettling the uprooted population groups in a framework of social justice, democratization and sustained, sustainable and equitable national development,

Considering that the resettlement of these uprooted population groups should be a dynamic factor in the economic, social, political and cultural development of the country and, consequently, an important component of a firm and lasting peace,

Recognizing the indispensable role of the participation of the affected population groups in taking decisions concerning the design and implementation of an effective resettlement strategy,

Bearing in mind the statements and proposals for consensus elaborated on this topic by the civil Assembly, which includes the specific demands of organizations representing the various uprooted groups,

Reiterating that the present Agreement together with those to be signed on the other agenda items in the negotiation process form part of an agreement on a firm and lasting peace and shall enter into force at the time of the signing of such agreement, with the exception of matters relating to the Technical Committee referred to in section V of this agreement and in paragraph 4 of that section,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as "the Parties") agree as follows:

I. DEFINITIONS, PRINCIPLES AND OBJECTIVES OF A COMPREHENSIVE STRATEGY FOR RESETTLING THE POPULATIONS UPROOTED BY ARMED CONFLICT

Definitions

1. For the purposes of this Agreement, the term "uprooted population" shall include all persons who have been uprooted for reasons connected with the armed conflict, whether they live within or outside Guatemala, and shall include, in particular, refugees, returnees and internally displaced persons, either dispersed or in groups, including popular resistance groups.

2. "Resettlement" shall mean the legal process of return of uprooted population groups and individuals to their place of origin or another place of their choice in Guatemalan territory, and their relocation and integration therein, in accordance with the Political Constitution of the Republic of Guatemala.

Principles

The Parties agree that a comprehensive solution to the problem of uprooted population groups should be guided by the following principles:

1. Uprooted population groups have the right to reside and live freely in Guatemalan territory. Accordingly, the Government of the Republic undertakes to ensure that conditions exist which permit and guarantee the voluntary return of uprooted persons to their places of origin or to the place of their choice, in conditions of dignity and security.

2. Full respect for the human rights of the uprooted population shall be an essential condition for the resettlement of this population.

3. Uprooted population groups deserve special attention, in view of the consequences they have suffered from being uprooted, through the implementation of a comprehensive, exceptional strategy which ensures, in the shortest possible time, their relocation in conditions of security and dignity and their free and full integration into the social, economic and political life of the country.

4. Uprooted population groups shall participate in decision-making concerning the design, implementation and supervision of the comprehensive resettlement strategy and its specific projects. This participatory principle shall extend to population groups residing in resettlement areas in all aspects concerning them.

5. A comprehensive strategy will be possible only within the perspective of a sustained, sustainable and equitable development of the resettlement areas for the benefit of all the population groups and individuals residing in them in the framework of a national development plan.

6. The implementation of the strategy shall not be discriminatory and shall promote the reconciliation of the interests of the resettled population groups and the population groups already living in the resettlement areas.

Objectives

The comprehensive resettlement strategy shall have the following objectives:

1. To ensure that the uprooted population groups fully enjoy all their rights and fundamental freedoms, in particular those rights and freedoms which were affected during the uprooting process;

2. To reintegrate the uprooted population groups, which were socially, economically and politically marginalized, and create the conditions that would allow them to be a dynamic factor in the economic, social, political and cultural development of the country;

3. To give priority to the fight against poverty and extreme poverty, which have had a particularly serious effect on areas where the population has been uprooted, and which largely correspond to the resettlement areas;

4. To develop and strengthen the democratization of State structures, ensuring that the constitutional rights and duties of the uprooted population groups are respected at the community, municipal, departmental, regional and national levels;

5. To promote genuine reconciliation, fostering a culture of peace in the resettlement areas and at the national level based on participation, mutual tolerance, reciprocal respect and commonality of interests.

II. GUARANTEES FOR THE RESETTLEMENT OF UPROOTED POPULATION GROUPS

In conformity with past resettlement initiatives and activities, particularly the letter of understanding between the Government and the Office of the United Nations High Commissioner for Refugees and the agreement of 8 October 1992 between the Government and the Standing Committees of Refugees, with its ad hoc verification mechanism, the Parties have agreed as follows:

1. Full respect for human rights and fundamental freedoms is essential for the security and dignity of resettlement processes. The Parties reiterate their decision to comply fully with the Comprehensive Agreement on Human Rights, which took effect on 29 March 1994, promoting respect for the human rights of uprooted populations, one of the vulnerable sectors which deserve particular attention, with special vigilance.

2. Special emphasis should be placed on protecting female-headed families and widows and orphans, who have been the most seriously affected.

3. The rights of the various indigenous communities, primarily Mayas, should be taken into account, especially respect for, and encouragement of, their way of life, cultural identity, customs, traditions and social organization.

4. Concerned about the security of those who are being resettled or who live in the zones affected by the conflict, the Parties recognize the urgent need to remove all types of mines or explosive devices buried or abandoned in these areas, and they commit themselves to cooperate fully in these activities.

5. In view of the efforts being made by uprooted communities to improve the level of education of their people and of the need to support and provide continuity to this process, the Government undertakes to:

5.1. Recognize the formal and informal educational levels of uprooted persons, through the use of rapid evaluation and/or certification procedures;

5.2. Recognize the informal studies of education and health promoters and grant them, following an appropriate evaluation, equivalent credit.

6. The Parties request the United Nations Educational, Scientific and Cultural Organization (UNESCO) to elaborate a specific plan to support and provide continuity to efforts to educate the population groups in the resettlement areas, including providing continuity to the efforts being made by the uprooted communities.

7. The lack of personal documentation for the majority of the uprooted population groups increases their vulnerability and limits their access to basic services and the enjoyment of their civil and political rights. This problem requires urgent solutions. Consequently, the Parties agree that the following steps are necessary:

7.1. In order to arrange for the documentation of uprooted persons as soon as possible, the Government, with the cooperation of the international community, shall intensify its efforts to streamline the necessary mechanisms, taking into account, where appropriate, the registers kept by the uprooted communities themselves;

7.2. Decree No. 70-91, a provisional act concerning replacement and registration of birth certificates in civil registers destroyed by violence, shall be revised so as to establish a system adapted to the needs of all the affected population groups, with streamlined, free-of-charge registration procedures. For such purposes, the views of the affected sectors shall be taken into account. Personal documentation and identification shall be completed as soon as possible;

7.3. The necessary administrative rules to streamline formalities to ensure that children of uprooted persons born outside the country are registered as native Guatemalans, in compliance with article 144 of the Constitution of the Republic, shall be promulgated;

7.4. For the implementation of this documentation programme, the Government shall request the cooperation of the United Nations and the international community.

8. An essential element of the resettlement process is legal security in the holding (inter alia, the use, ownership and possession) of land. In that

regard, the Parties recognize the existence of a general problem which particularly affects the uprooted population. One of the principal manifestations of legal insecurity is the difficulty of producing evidence of landholding rights. This situation stems, inter alia, from problems concerning registration, the disappearance of the files of the Instituto Nacional de Transformación Agraria (INTA), the institutional weakness of specialized bodies and municipalities; the existence of rights based on customary systems for the holding and surveying of land; the existence of secondary occupants or the annulment of rights on the basis of the improper application of provisions concerning voluntary abandonment.

9. In the particular case of abandonment of land as a result of armed conflict, the Government undertakes to revise and promote legal provisions to ensure that such an act is not considered to be voluntary abandonment, and to ratify the inalienable nature of landholding rights.

In this context, it shall promote the return of land to the original holders and/or shall seek adequate compensatory solutions.

10. In accordance with the observance of political rights, the organizational practices of the uprooted populations shall be respected, pursuant to the constitutional framework, for the purpose of strengthening the community organization system and to allow these populations to become agents of development and manage their own services and infrastructure. It is important to integrate new groups of resettled populations into the municipal system.

11. The Parties recognize the humanitarian work of non-governmental organizations and churches which are supporting the resettlement processes. The Government shall safeguard their security.

12. The Government undertakes to strengthen its policy for protecting citizens abroad, especially uprooted population groups residing abroad for reasons related to the armed conflict. It shall also ensure the voluntary resettlement of this population group in conditions of security and dignity. With regard to uprooted persons who desire to remain abroad, the Government shall take the necessary steps and conduct the necessary negotiations with the host countries so as to ensure that the migrants are living in a stable situation.

III. PRODUCTIVE INTEGRATION OF UPROOTED POPULATION GROUPS AND DEVELOPMENT OF RESETTLEMENT AREAS

The Parties agree that a comprehensive resettlement strategy presupposes the productive integration of the uprooted population into the framework of a sustained, sustainable and equitable development policy in the resettlement areas and regions that will benefit all the population groups living there. This productive integration policy shall be based on the following criteria and measures:

1. The resettlement areas are predominantly rural. Land, which is a finite resource, is one of the alternative sources of economic and productive integration. Sustainable agricultural development projects are required, in

order to offer the population the means to break the vicious circle of poverty and degradation of natural resources and, in particular, to allow for the productive and ecologically sound protection and development of fragile areas.

2. For the identification of land that could be used for resettling uprooted persons who do not own land but wish to acquire it, the Government undertakes to:

2.1. Carry out a review and updating of official land and real estate registers;

2.2. Conduct studies to identify and individualize all State-owned, municipally owned and private land, offering an option to purchase it. These studies shall include information on the location, legal regime, acquisition, size, boundaries and agricultural suitability of the land in question;

2.3. Complete these studies by the date of entry into force of the present agreement, at the latest.

3. The criteria for selecting land for settlements shall include the agro-ecological potential of the soil, its price, the sustainability of natural resources and existing services.

4. The development of the above-mentioned areas in conditions of justice, equity, maintainability and sustainability shall involve, in addition to agricultural activities, the creation of jobs and income from agro-industry, industry and services, under systems that are appropriate to the rural environment and to the preservation of natural resources. To this end, it is essential to develop basic infrastructure for communications, electrification and production. Public investment shall be geared primarily to this purpose, and a system of investment incentives for rural development in the areas in question shall be established.

5. To improve the quality of life, the objectives of rural development should include: (i) local food security and basic service infrastructure for the population groups, including housing, sanitation, drinking water, rural storage, health and education; (ii) an increase in production and productivity and promotion of local and regional markets for agricultural, agro-industrial and non-industrial products and inputs; (iii) generation of jobs and income; (iv) sustained and sustainable use of the available natural resources, through management of resources at the local level.

6. Productive integration projects and activities related to the comprehensive resettlement strategy shall take into account the following criteria:

6.1. The regional and local aspects of the resettlement areas, and the use of territorial management tools to promote the use of resources in accordance with their best potential;

6.2. Use of the response capacity, organizational levels and expectations of the population, promoting an increasingly organized and informed participation;

6.3. Legalization and award of land titles, and of water rights, to provide the necessary framework of security in the use of these basic natural resources;

6.4. Promotion of local and regional organizations and institutions for the combining of interests and rational planning of the use of available resources;

6.5. Establishment of successive development objectives, based on a prime, immediate objective of food security and adequate nutrition for families and communities;

6.6. Promotion of local and regional markets for products and inputs, and developing appropriate marketing mechanisms for agricultural, agro-industrial and non-industrial products;

6.7. Establishment of basic service infrastructure for population groups: housing, sanitation, drinking water, rural storage, health and education;

6.8. Improvement and/or installation of permanent, competent services of technical support to all organizations and projects, including support to non-governmental organizations which select population groups to help implement their projects;

6.9. Improvement and/or establishment of rural financial and credit assistance services suited to the needs and possibilities of the populations involved;

6.10. Setting up of training programmes designed to diversify and expand the production and management capacity of the beneficiaries.

7. The Government undertakes to put into effect and promote the agreed planning systems for developing the resettlement areas and to ensure that the population groups have access to them as neighbours and residents.

8. The Government undertakes to eliminate any form of de facto or de jure discrimination against women with regard to access to land, housing, credits and participation in development projects. The gender-based approach shall be incorporated into the policies, programmes and activities of the comprehensive development strategy.

9. The solving of each of the problems involved in resettlement and development of the affected areas shall take as a point of departure the study and design of resettlement conditions and the advice, views and organized participation of the uprooted groups and resident communities.

10. The institutional development of municipalities is fundamental in the democratic development process and in the integration of marginalized populations. The Government agrees to intensify the administrative, technical and financial strengthening of local governments and organizations through basic training, occupational training and employment programmes. It shall also strengthen the community organization system so that communities can be their

own agents of development, manage their own systems of services and infrastructure and be duly represented in the management of their own political, legal and economic affairs.

11. The Government also undertakes to expand on its plan for decentralization of public administration, and to enhance its capacity to implement them, gradually transferring decision-making power in the management of resources and administration of services to local communities and governments.

IV. RESOURCES AND INTERNATIONAL COOPERATION

1. The Parties recognize that the responsibility for solving the problems of resettling the uprooted population falls on the entire Guatemalan society, and not on the Government alone. Broad sectors of Guatemalan society must unite their efforts to ensure its success.

2. For its part, the Government undertakes to allocate and mobilize national resources in a manner consistent with its efforts at macroeconomic stabilization and modernization of the economy; and to reorient and target public expenditure towards fighting poverty and resettling the uprooted population.

3. The Parties recognize that the series of tasks relating to the resettlement of the uprooted population is of such breadth and complexity that the strong support of the international community is needed in order to complement the domestic efforts of the Government and of the various sectors of civil society. Otherwise, the Government's commitment would be limited by financial constraints.

V. INSTITUTIONAL ARRANGEMENTS

1. The agreements contained in the comprehensive resettlement strategy shall be implemented through the execution of specific projects.

2. For that purpose the Parties agree to establish a Technical Committee for the implementation of the resettlement agreement, to be composed of two representatives designated by the Government, two representatives designated by the uprooted population groups and two representatives of donors, cooperating bodies and international cooperating agencies. The latter representatives shall have consultative status. The Committee shall draw up its own rules of procedure.

3. The Committee shall be established within 60 days following the signing of this Agreement and to that end the Government of Guatemala shall issue the corresponding governmental decree.

4. The Committee shall, from the time it is established until the entry into force of this Agreement, conduct the necessary evaluations and studies in order to identify and analyse the needs and demands of the uprooted population and to formulate projects corresponding to the various undertakings contained in the strategy determined in this Agreement. In carrying out said studies and

analyses and formulating projects the Committee shall have the technical support of the corresponding specialized personnel.

5. Once the study phase is completed and as soon as this Agreement enters into force, the Committee shall be responsible for prioritizing and approving projects and supervising their execution, allocating the funds required in each case and securing technical and financial resources. The Parties agree that implementation of the strategy shall meet the criteria of priority to the struggle against poverty, efficient management, participation of the recipient populations and transparency concerning expenditures.

6. For the purpose of ensuring implementation of the resettlement strategy, the Parties agree to establish a fund to implement the agreement on resettlement of population groups uprooted by armed conflict essentially with contributions from the international community. The United Nations Development Programme (UNDP) shall be asked to administer the funds of each of the projects to be executed.

VI. FINAL PROVISION

In accordance with the Framework Agreement of 10 January 1994, this Agreement shall be subject to international verification by the United Nations.

Oslo, 17 June 1994

For the Government of the Republic of Guatemala

(Signed)
Héctor ROSADA GRANADOS

(Signed)
Antonio ARENALES FORNO

(Signed)
Mario PERMUTH

(Signed)
Amilcar BURGOS SOLIS

(Signed)
General Carlos Enrique PINEDA CARRANDA

(Signed)
General Julio Arnoldo BALCONI TURCIOS

(Signed)
General José Horacio SOTO SALAN

For the Unidad Revolucionaria Nacional Guatemalteca

General Command

(Signed)
Commander Rolando MORAN

(Signed)
Commander Gaspar ILOM

(Signed)
Commander Pablo MONSANTO

(Signed)
Carlos GONZALEZ

Political and Diplomatic Commission

(Signed)
Luis Felipe BECKER GUZMAN

(Signed)
Miguel Angel SANDOVAL

(Signed)
Francisco VILLAGRAN MUNOZ

(Signed)
Luz MENDEZ GUTIERREZ

Advisers

(Signed)
Mario Vinicio CASTAÑEDA

(Signed)
Miguel Angel REYES

(Signed)
Jorge ROSAL

For the United Nations

(Signed)
Jean ARNAULT
Moderator

ANNEX II

Agreement on the establishment of the Commission to clarify past human rights violations and acts of violence that have caused the Guatemalan population to suffer

Whereas the present-day history of our country is marked by grave acts of violence, disregard for the fundamental rights of the individual and suffering of the population connected with the armed conflict;

Whereas the people of Guatemala have a right to know the whole truth concerning these events, clarification of which will help avoid a repetition of these sad and painful events and strengthen the process of democratization in Guatemala;

Reiterating its wish to comply fully with the Comprehensive Agreement on Human Rights of 29 March 1994;

Reiterating its wish to open as soon as possible a new chapter in Guatemala's history which, being the culmination of a lengthy process of negotiation, will put an end to the armed conflict and help lay the bases for peaceful coexistence and respect for human rights among Guatemalans;

Whereas, in this context, promotion of a culture of harmony and mutual respect that will eliminate any form of revenge or vengeance is a prerequisite for a firm and lasting peace,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereafter referred to as "the Parties") have agreed as follows:

To establish a Commission whose terms of reference shall be as follows:

Purposes

I. To clarify with all objectivity, equity and impartiality the human rights violations and acts of violence that have caused the Guatemalan population to suffer, connected with the armed conflict.

II. To prepare a report that will contain the findings of the investigations carried out and provide objective information regarding events during this period covering all factors, internal as well as external.

III. Formulate specific recommendations to encourage peace and national harmony in Guatemala. The Commission shall recommend, in particular, measures to preserve the memory of the victims, to foster a culture of mutual respect and observance of human rights and to strengthen the democratic process.

Period covered

The Commission's investigations shall cover the period from the start of the armed conflict until the signing of the firm and lasting peace agreement.

Operation

I. The Commission shall receive particulars and information from individuals or institutions that consider themselves to be affected and also from the Parties.

II. The Commission shall be responsible for clarifying these situations fully and in detail. In particular, it shall analyse the factors and circumstances involved in those cases with complete impartiality. The Commission shall invite those who may be in possession of relevant information to submit their version of the incidents. Failure of those concerned to appear shall not prevent the Commission from reaching a determination on the cases.

III. The Commission shall not attribute responsibility to any individual in its work, recommendations and report nor shall these have any judicial aim or effect.

IV. The Commission's proceedings shall be confidential so as to guarantee the secrecy of the sources and the safety of witnesses and informants.

V. Once it is established, the Commission shall publicize the fact that it has been established and the place where it is meeting by all possible means, and shall invite interested parties to present their information and their testimony.

Composition

The Commission shall consist of the following three members:

(i) The present Moderator of the peace negotiations, whom the Secretary-General of the United Nations shall be asked to appoint.

(ii) One member, a Guatemalan of irreproachable conduct, appointed by the Moderator with the agreement of the Parties.

(iii) One academic selected by the Moderator, with the agreement of the Parties, from a list proposed by the University presidents.

The Commission shall have whatever support staff it deems necessary, with the requisite qualifications, in order to carry out its tasks.

Installation and duration

The Commission shall be set up, installed and shall start to work as of the day the firm and lasting peace agreement is signed. The Commission shall work for a period of six months starting from the date of its installation; this period may be extended for a further six months if the Commission so decides.

Report

The Commission shall prepare a report which shall be handed over to the parties and to the Secretary-General of the United Nations who shall publish it.

Inability to investigate all the cases or situations presented to the Commission shall not detract from the report's validity.

Commitment of the Parties

The Parties undertake to collaborate with the Commission in all matters that may be necessary for the fulfilment of its mandate. In particular, they undertake to establish, prior to setting up the Commission and during its operations, the necessary conditions so that the Commission may fulfil the terms of reference established in the present agreement.

International verification

In conformity with the Framework Agreement of 10 January 1994, implementation of this Agreement shall be subject to international verification by the United Nations.

Measures for prompt execution following the signing of this Agreement

The Parties agree to ask the Secretary-General to appoint the Moderator of the negotiations as a member of the Commission as soon as possible. When he is appointed, he shall be authorized to proceed forthwith to make all necessary arrangements to ensure that the Commission functions smoothly once it is established and installed in conformity with the provisions of this Agreement.

Oslo, 23 June 1994

For the Government of the Republic of Guatemala

(Signed)
Héctor ROSADA GRANADOS

(Signed)
General Carlos Enrique PINEDA CARRANZA

(Signed)
Antonio M. ARENALES FORNO

(Signed)
General Julio Arnoldo BALCONI TURCIOS

(Signed)
Mario PERMUTH

(Signed)
General José Horacio SOTO SALAN

(Signed)
Amilcar BURGOS SOLIS

For the Unidad Revolucionaria Nacional Guatemalteca

General Command

(Signed)
Carlos GONZALES

(Signed)
Commander Rolando MORAN

(Signed)
Commander Gaspar ILOM

(Signed)
Commander Pablo MONSANTO

Political and Diplomatic Commission

(Signed)
Luis Felipe BECKER GUZMAN

(Signed)
Miguel Angel SANDOVAL

(Signed)
Francisco VILLAGRAN MUÑOZ

(Signed)
Luz MENDEZ GUTIERREZ

Advisers

(Signed)
Mario Vinicio CASTAÑEDA

(Signed)
Miguel Angel REYES

(Signed)
Jorge ROSAL

For the United Nations

(Signed)

Jean ARNAULT
Moderator